

**MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF SANTA FE
AND SANTA FE COUNTY FOR A WASTEWATER COLLECTION SYSTEM
DISCHARGING INTO THE CITY WASTEWATER SYSTEM**

The City of Santa Fe ("City") and Santa Fe County ("County") enter into this Memorandum of Understanding this 12th day of May, 2010.

RECITALS

1. The City and the County entered into a "Settlement Agreement and Mutual Release of Claims" on May 19, 2008, which addressed issues of annexation in general, the presumptive City limits, and the need to "establish sensible water and wastewater utility service areas for the City and County."

Under the Settlement Agreement § 2(l), "The City shall provide water and wastewater service within the Presumptive City Limits and shall not provide water and wastewater service outside the Presumptive City Limits unless required by a current contract with a customer, decrees of a court, or applicable rulings of the Public Regulation Commission, unless otherwise agreed upon between the City and the County in a separate written agreement."

2. The City's Ordinance, SFCC § 22-6.2 provides a process whereby connections to the City's sewer system outside of the City limits can be established under specific conditions, including review by a water/wastewater review team made up of "city and county staff from the water division, the wastewater division, the city attorney's office, the county attorney's office, the land use departments and the office of affordable housing."
3. The New Mexico Environment Department ("NMED") is requiring Harry's Roadhouse, which is located along the Old Las Vegas Highway, to obtain ground water discharge permits in accordance with the Ground Water Quality Control Commission ("WQQC") Regulations, 20.6.2 NMAC. As a result of NMED's actions, Harry's Roadhouse has applied to the City of Santa Fe for permission to construct facilities sufficient to discharge wastewater into the City wastewater system.
4. Harry's Roadhouse is located outside of the Presumptive City Limits as defined in the "Settlement Agreement and Mutual Release of Claims" of May 19, 2008.

5. Both the City and the County anticipate that the wastewater collection line proposed to serve Harry's Roadhouse would be able to serve other properties in the vicinity and address groundwater contamination in the area.
6. The County regulates land use along the relevant section of Old Las Vegas Highway and can best decide which properties are appropriate to connect to the sewer line in that area.
7. The City and County desire that the water/wastewater review team review the Harry's Roadhouse application for wastewater service and recommend that the application be approved subject to the terms of this Memorandum of Understanding (MOU).

AGREEMENT

1. Ownership of the Wastewater Collection System.

(a) The County's utilities division currently owns and operates a water system and provides wastewater infrastructure in parts of Santa Fe County. The County is willing to expand its wastewater operations by accepting ownership of and maintenance responsibility for a "wastewater collection system" outside the presumptive city limits on a portion of Old Las Vegas Highway. The conditions outlined in subsection (b) below must be met prior to the County accepting ownership of the wastewater collection system, which is the system proposed by Harry's Roadhouse in their application of January 15, 2009 to the City for sewer service. If the conditions set forth in subsection (b) below are met and the County owns the wastewater collection system, the system will discharge into the City's wastewater collection system and the County will be a wastewater customer of the City.

(b) The County will accept ownership and shall maintain the wastewater collection system only if the following conditions are met:

- i. Harry's Roadhouse, the applicant for City sewer service, designs, constructs and pays for all costs associated with the design and construction of the wastewater collection system depicted in the plans attached to the application submitted on January 15, 2009 which plans are made a part hereof by reference;
- ii. Conveyance of the wastewater collection system and all associated easements, rights-of-way or permits associated with that system to the County together with a one year warranty of the system;

- iii. Written confirmation from the City that the wastewater collection system has been designed and installed to meet City standards.
 - iv. Written confirmation from the engineer who designs the wastewater collection system that it has been designed and installed to meet City standards and the standards of any other public agency requiring review under Federal, State and/or Local laws.
 - v. Receipt of all record drawing plans of the wastewater collection system.
2. Acceptance of Wastewater by the City. The City shall accept wastewater from the wastewater collection system if the County accepts ownership of the wastewater collection system in accordance with this MOU.
3. Compliance with Federal and State Law and City Ordinances. Upon taking ownership of the wastewater collection system, the County agrees to maintain and operate the wastewater collection system as required by all applicable Federal, State, and local laws and shall comply with all applicable requirements imposed upon City wastewater customers. However, the City's affordable housing ordinance, SFCC 14-8-11(D) does not apply to any properties outside of the presumptive city limits and will not be applied to the County and the County's wastewater customers within the service area of the wastewater collection system.
4. Requirements for Connection. Following acceptance of the wastewater collection system, the County agrees to advise the City of connections of county customers to the system, including whether the county customer is a residential or commercial customer. The County will not permit properties outside of the designated maximum service area set forth as SDA-1 in Exhibit A, to connect to the wastewater collection system without prior written approval from the City and the County pursuant to the Settlement Agreement.
5. Metering Requirements. The County shall require customers connecting to the pipeline to meter their water supply. The County will report the metered water consumption to the City on a monthly basis for use in calculating wastewater treatment charges to be paid by the County. Charges shall be calculated using the monthly metered water usage for commercial customers and the average monthly usage from December through February for residential customers.
6. Utility Expansion Charges. The County agrees that, for each new customer it connects to the line, the County shall pay the City's Utility Expansion Charge under SFCC § 22-6.6 as it may be amended from time to time.

7. Service Fees. The County agrees to pay to the City the sum of the City's monthly service fees due for wastewater services provided to each hook-up to the wastewater discharge pipeline under SFCC § 22.7-1, as it may be amended from time to time.
8. Successors & Assigns. This Memorandum of Understanding will inure to the benefit of the Parties' successors or assigns.
9. Amendments. This MOU may be amended in writing by agreement of all the parties.

For the County:




Harry Montoya, Chair, Board of Santa Fe
County Commissioners

5-11-10

Date

Approved as to Form:

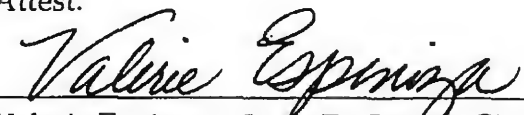


Stephen C. Ross, Santa Fe County Attorney

3-31-10

Date

Attest:



Valerie Espinoza, Santa Fe County Clerk

5-11-10

Date



Finance Department Approval:



Teresa Martinez, County Finance Director

4/7/2010

Date

10. Signature of Parties. This agreement is effective upon the signature of all the Parties.

For the City:

David Coss

David Coss, Mayor
City of Santa Fe

5-14-10

Date

Attest:

Yolanda Y. Vigil
Yolanda Y. Vigil, City Clerk
ccm:tg 5-12-10

5-20-10

Date

Approved as to Form:

Geno Zamora

Geno Zamora, City Attorney

5/13/10

Date

Kathryn Raveling

Kathryn Raveling, Finance Director

Date

Proposed Sustainable Development Areas Map (2009 - 2030)

Legend

 Parcels

 City of Santa Fe Boundary

Proposed Sustainable Development

 SDA-1

SDA-2

 SDA-3

EXHIBIT



